IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5598 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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ABDUL KADAR ABDUL REHMAN

Versus

MUNICIPAL CORPORATION OF CITY OF AHMEDABAD.

Appearance:

1. Special Civil Application No. 5598 of 1987

MR GIRISH PATEL for Petitioner No. 1

MR SI NANAVATI for Respondent No. 1

NOTICE SERVED for Respondent No. 2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 16/04/2002

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution, the petitioner had challenged the action of the respondent in terminating the canteen contract of the petitioner and in giving the canteen contract to another

party.

2. Respondent No.1 - Ahmedabad Municipal Corporation has provided for a canteen for the Councillors of the Corporation. The contractor has to run the canteen to provide tea - coffee at concessional rates to the Councillors. The Municipal Secretary of the Corporation is incharge of the canteen. All the expenses of the canteen are borne by the Corporation. The petitioner was given the contract for running this canteen since April, 1981. The petitioner ran the canteen for six years and thereafter in May, 1987, the Corporation gave the contract for running the said canteen to one Gajendrakumar Laxmishanker Vyas as per the order dated 27-5-1987 of the Mayor. The contract was given for a period of six months. The said decision was challenged by the petitioner in the present petition mainly on the ground that in January, 1987 elections to the Municipal Corporation were held and Bhartiya Janta Party came into power and that the contract given to the petitioner in 1981 was terminated on account of the communal approach. It is further alleged that the candidate of the BJP who was defeated at the municipal elections was really looking after the canteen but canteen was in the name of his relative.

3. Notice was issued by this Court on 16-10-1987 and the respondents were directed to consider the request made by the petitioner for giving alternative canteen space to the petitioner. The petition ultimately came to be admitted on 10-2-1989. When the petition came up for hearing on 10-4-2002, the learned counsel for the petitioner prayed for adjournment and, therefore, the petition was fixed for hearing today.

4. It appears to the Court that this petition is not required to be decided on merits for two reasons. In the first place, the contract awarded to Shri Gajendrakumar Laxmishanker Vyas in June, 1987 was for a period of six months. Neither of the learned counsel are in a position to state whether the same contractor is running the canteen today. Secondly, in any view of the matter, since the allegation is made that the contract given to the petitioner in 1981 was terminated in 1987 on account of political consideration, that ground will not now survive in view of the fact that at present the ruling party in Ahmedabad Municipal Corporation is not the BJP but Congress party. The learned counsel for the respondent Corporation states so.

5. In view of the above, this petition is disposed

of as infructuous but with liberty to the petitioner to make a suitable representation to the respondent Corporation. If such a representation is made within one month from today, the same shall be considered by the respondent within three months from the date of receipt of the representation.

6. The petition accordingly stands disposed of. Rule is discharged. Liberty to apply in case of difficulty.

(M.S. Shah,J)

zgs/-